

## APPEAL NO. 93354

Pursuant to the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN. art. 8308-1.01 *et seq.* (Vernon Supp. 1993) (1989 Act), a contested case hearing was held in (city), Texas, on January 13, 1993, (hearing officer) presiding as hearing officer. In a decision sent to the appellant (carrier) on February 1, 1992, the hearing officer determined that the respondent (claimant) had good cause for not timely reporting his compensable injury and that he was entitled to workers' compensation benefits. In a request for review, untimely filed, received by the Commission on May 7, 1993, the carrier urges error in the hearing officer's determination on the notice issue. No response has been filed.

### DECISION

We find that the request for review was not filed within the time limits required by Article 8308-6.41(a) and that the decision of the hearing officer is the final administrative decision in this case. Article 8308-6.34(h).

In the request for review, carrier acknowledges that it is not timely filed and states:

The Decision and Order was not forwarded to the attorney for Carrier. Therefore, the Carrier and the attorney for Carrier were denied the opportunity to discuss whether an appeal should be filed in this matter, and hence, a timely appeal was not filed by the Carrier.

We note that the carrier, as the party of interest, was sent a copy of the hearing officer's decision pursuant to Tex. W. C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(b) (Rule 102.5(b)) at the carrier's Austin representative's address. We also note that pursuant to Rule 156.1, each insurance carrier is required to designate an Austin representative and that pursuant to Rule 156.1(c), "any notice from the commission, sent to the designated representative's Austin address is notice from the Commission to the insurance carrier." Furthermore, in Texas Workers' Compensation Commission Advisory 92-07, dated November 3, 1992, all carrier representatives were advised:

Beginning November 30, 1992, all documents and notices required to be provided by the Texas Workers' Compensation Commission to insurance companies that provide workers' compensation coverage will be placed in the Carrier's Austin Commission Representative's Box on the first floor in the Central Office.

This includes, but is not necessarily limited to, documents such as Set Notices for Benefit Review Conferences and Contested Case Hearings and transmittal letters containing Benefit Review Conference Reports, Contested Case Hearing Decision, and Appeals Panel Decisions. No additional copies of such documents will be mailed to Carriers' Representatives who have attended such proceedings.

With the decision in this case being distributed on February 1, 1993, it is clear that

the request for review is untimely, and therefore cannot be considered. While we do not question that a copy of the decision was not sent to carrier's attorney and that the carrier's attorney may not have become aware of the decision, this is not reason or authority to overlook the plain statutory time limits imposed on filing a request for review. We have previously held that it is receipt by a party, in this case the carrier, that controls. Texas Workers' Compensation Commission Appeal No. 92219, decided July 15, 1992.

Article 8308-6.34(h) provides that the decision of the hearing officer is final in the absence of a timely request for review. Determining the request for review was not timely filed, we have no jurisdiction to review the hearing officer's decision. Accordingly, the decision of the hearing officer is final.

---

Stark O. Sanders, Jr.  
Chief Appeals Judge

CONCUR:

---

Thomas A. Knapp  
Appeals Judge

---

Gary L. Kilgore  
Appeals Judge